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H.B. 5438 -- Bedbugs

Housing Committee public hearing -- March 4, 2014

Testimony of Raphael L. Podolsky

Recommended Committee action: SUPPORT
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H.B. 5438, which spells out the responsibilities of landlords and tenants in dealing with bedbugs, is substantially the same as the bill approved last year by the Housing Committee and by the Senate. The bill was the product of a stakeholder working group that included representatives of housing prosecutors, landlords, tenants, health and pest control experts, and others. The resulting draft very carefully balances landlord, tenant, and public health interests. While no party was completely satisfied with this balancing, I believe that the result is both pragmatic and fair to everyone. I urge the Committee not to disturb this balance.

Existing law already allocates extermination responsibilities -- it is the landlord's duty to eradicate pests and the tenant's duty to cooperate -- and provides remedies for both landlords and tenants. Under existing law, the landlord is required to comply with all health and safety codes and to do what is necessary to put and keep premises in a fit and habitable condition. See C.G.S. 47a-7(a)(1) and (2). Tenants are required to comply with all obligations put on them by health and safety codes and to keep their apartments as clean and safe as the condition of the premises permits. See C.G.S. 47a-11(a) and (b). Expanding on the meaning of these duties in the context of bedbugs can be helpful to all parties. It is important, however, that any detailed articulation of duties be fair, reasonable, and workable. Changes to the compromises developed by the working group risk undermining the balance.

H.B. 5438 builds on these existing concepts by implementing the following principles:

- A solution to the bedbug problem cannot be based on fault. It is widely recognized that bedbugs travel easily, that the source of a bedbug infestation is not always easy to identify, and that their entrance into an apartment is not necessarily the fault of the tenant who lives there. They can be picked up as easily by a middle class couple staying in a hotel or bed-and-breakfast as by a low-income person riding the bus. Solutions, including how costs are met, should not be based on false assumptions about fault.
- Any solution should be structured around stopping the spread of bedbugs and eradicating the ones already in place. In practice, extermination work can only

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be accomplished by the landlord and his agents. Most tenants are not in a position to front costs, and tenants have no right to go into any apartment other than their own. H.B. 5438 provides that the landlord is responsible for the actual extermination while the tenant is responsible for preparing the unit for the exterminator.

- Tenants cannot be expected to do things that they realistically are not able to do. For example, the law should recognize that not all tenants can adequately prepare an apartment for extermination. Apartment preparation may present special problems for tenants who are elderly, disabled, blind, or have other physical or emotional conditions that limit their capabilities. In regard to persons with disabilities, the Fair Housing Act requires the landlord to make reasonable accommodation for the disability. The law must also recognize that some tenants will be unable to afford the costs associated with eradicating bedbug infestations. H.B. 5438 attempts to address this without putting tenants at risk of eviction.
- Tenants have important privacy rights that should be respected.